United States Court of Appeals for the Second Circuit



APPENDIX

No. 75-1015

IN THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

UNITED STATES OF AMERICA Plaintiff-Appellee,

V.

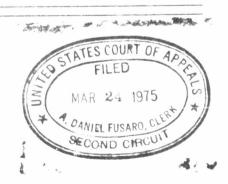
MARY JEAN ASKEW
Defendant-Appellant.

APPENDIX

On Appeal from the United States District Court for the Western District of New York

DOYLE, DIEBOLD, BERMINGHAM & GORMAN Attorneys for Appellant Office & P. O. Address 1340 Statler Hilton Hotel Buffalo, New York 14202 716-853-8190

VINCENT E. DOYLE, JR., ESQ. OF COUNSEL



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In the District Court of the United States

For the Western District of New York

THE UNITED STATES OF AMERICA

-VS-

MARY JEAN ASKEW

MARCH 1973 SESSION TURK Impaneled July 9 1973

Vio. Title 18, U.S.C., Sect. 1623

 $\frac{\text{COUNT 1}}{\text{The Grand Jury Charges:}}$

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That on or about the 8th day of August, 1973, in the Western District of New York, the defendant, MARY JEAN ASKEW, having duly taken an oath that she would testify truthfully in a proceeding before the United States Grand Jury, which had been duly impaneled and sworn in the United States District Court for the Western District of New York, did unlawfully and knowingly make certain false and material declarations to the said grand jury which were material to an investigation being conducted by said grand jury into alleged violations of Title 18, United States Code, Sections 1001 and 1341 and other offenses against the United States of America, which declarations, as she then and there knew, were not true and correct, to wit:

- Q. Did you ever receive any checks from the State of New York in the mail at your residence during the year 1970 or 1971 which were unemployment benefits payable to Catherine Willis?
- A. I don't think so.
- Q. All right. Specifically, do you ever recall cashing any checks payable to

Catherine Willis mailed to your residence at 83 Brunswick Blvd.?

- A. No.
- Q. Did you ever cash a check or checks payable to one Catherine Willis at any time in 1971?
- A. No.

All in violation of Title 18, United States Code, Section 1623.

COUNT II

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The Grand Jury further charges:

That on or about the 8th day of August, 1973, in the Western District of New York, the defendant, MARY JEAN ASKEW, having duly taken an oath that she would testify truthfully in a proceeding before the United States Grand Jury, which had been duly impaneled and sworn in the United States District Court for the Western District of New York, did unlawfully and knowingly make certain false and material declarations to the said grand jury which were material to an investigation being conducted by said grand jury into alleged violations of Title 18, United States Code, Sections 1001 and 1341 and other offenses against the United States of America, which declarations, as she then and there knew, were not true and correct, to wit:

Q. First, I show you Grand Jury Exhibit #1
for Identification dated August 8th, 1973,
which consists of a signature card and a
check from the State of New York payable
to K.L. Willis, 83 Brunswick Blvd.,
Buffalo, New York, in the amount of \$75,

dated May 9th, 1972, and attached, a regisscope photograph which depicts a woman cashing that very check. The check is in the picture in the top half of the photograph. Take a look at that photograph and tell us if that isn't yourself in that photograph cashing the Willis check.

- A. No.
- Q. This isn't you?
- A. No.
- Q. You are sure of that?
- A. It couldn't be me.
- Q. All right. On that same exhibit, is that your signature where the endorsement Kathryn L. Willis appears in the back of the check?
- A. No.
- Q. You are sure?
- A. I am sure.

All in violation of Title 18, United States Code, Section 1623.

COUNT III

The Grand Jury further charges:

That on or about the 8th day of August, 1973, in the Western District of New York, the defendant, MARY JEAN ASKEW, having duly taken an oath that she would testify truthfully in a proceeding before the United States Grand Jury, which had been duly impaneled and sworn in the United States District Court for the Western District of New York,

did unlawfully and knowingly make certain false and material declarations to the said grand jury which were material to an investigation being conducted by said grand jury into alleged violations of Title 18, United States Code, Sections 1001 and 1341 and other offenses against the United States of America, which declarations, as she then and there knew, were not true and correct, to wit:

- Q. Next I show you Grand Jury Exhibit 2
 for Identification dated August 8th,
 1973, another signature card of a
 Kathryn Willis on the State of New York
 check, this one dated April 21st, 1972,
 also payable to K.L. Willis, 83 Brunswick
 Blvd., Buffalo, New York, in the amount
 of \$75 and the regisscope photo attached
 thereon with a photograph of a woman
 in the lower half and a photograph of
 this same New York State check I just
 referred to in the upper half. I ask
 you if that is not you in that photograph.
- A. No.
- Q. You didn't cash that Willis check in Exhibit #2?
- A. I said no.
- Q. Is that your signature?
- A. No.
- Q. In the endorsement, Kathryn L. Willis? It appears twice.
- A. No.
- Q. You are sure?
- A. Yes.

All in violation of Title 18, United States Code, Section 1623.

COUNT IV

The Grand Jury further charges:

That on or about the 8th day of August, 1973, in the Western District of New York, the defendant, MARY JEAN ASKEW, having duly taken an oath that she would testify truthfully in a proceeding before the United States Grand Jury, which had been duly impaneled and sworn in the United States District Court for the Western District of New York, did unlawfully and knowingly make certain false and material declarations to the said grand jury which were material to an investigation being conducted by said grand jury into alleged violations of Title 18, United States Code, Sections 1001 and 1341 and other offenses against the United States of America, which declarations, as she then and there knew, were not true and correct, to wit:

- Q. Next I show you Grand Jury Exhibit 3, another signature card for the same K.L. Willis, another check dated March 24th, 1972, in the same amount and payable to the same individual at your address, 83 Brunswick Blvd., with the same attached regisscope photograph showing a woman cashing the check. The photograph on the bottom appears to be you. The check on top is the same one I just referred to. Is that a photograph of you?
- A. No.
- Q. Did you cash that Willis check, Exhibit #3?
- A. No.

- Q. Is that your signature where the endorsement Kathryn Willis appears on the back of the check?
- A. No.
- Q. Are you sure?
- A. Yes.

All in violation of Title 18, United States Code, Section 1623.

COUNT V

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The Grand Jury further charges:

That on or about the 8th day of August, 1973, in the Western District of New York, the defendant, MARY JEAN ASKEW, having duly taken an oath that she would testify truthfully in a proceeding before the United States Grand Jury, which had been duly impaneled and sworn in the United States District Court for the Western District of New York, did unlawfully and knowingly make certain false and material declarations to the said grand jury which were material to an investigation being conducted by said grand jury into alleged violations of Title 18, United States Code, Sections 1001 and 1341 and other offenses against the United States of America, which declarations, as she then and there knew, were not true and correct, to wit:

Q. Lastly, I show you Grand Jury Exhibit 4, another signature card, Kathryn Willis, another check dated March 17th, 1972, and in the amount of \$75 payable to K.L. Willis, 83 Brunswick Blvd. Again your address. I also show you a regissope photograph with a picture of a

woman on the bottom and the picture of the same New York State check on the top and I ask you if that is your photograph in that picture.

- A. No.
- Q. Did you cash that Willis check, Exhibit #4?
- A. No.
- Q. Is that your signature where the endorsement Willis appears on the back of the check?
- A. No.
- Q. Are you sure?
- A. I'm sure.

All in violation of Title 18, United States Code, Section 1623.

COUNT VI DISMISS

The Grand Jury further charges:

the Western District of New York, the defendant, MARY JEAN ASKEW, having duly taken an oath that she would testify truthfully in a proceeding before the United States Grand Jury, which had been duly impaneled and sworn in the United States District Court for the Western District of New York, did unlawfully and knowingly make certain false and material declarations to the said grand jury which were material to an investigation being conducted by said grand jury into alleged violations of Title 18, United States Code, Sections 1001 and 1341 and other offenses against the United States of America, which declarations, as she then and there knew, were not true and correct, to wit:

- Q. Are you aware that the State of New York Department of Labor has a record that 52 checks were mailed during a period of 52 weeks in 1972 through early 1973 to your address at 83 Brunswick Blvd. payable to Kathryn Lee Willis?
- A. No.
- Q. And not returned unreceived.
- A. No.
- Q. Did you ever see any of those 52 checks?
- A. No.

All in violation of Title 18, United States Code, Section 1623.

COUNT VII V DIOMIS.

The Grand Jury further charges:

That on or about the 8th day of August, 1973, in the Western District of New York, the defendant, MARY JEAN ASKEW, having duly taken an oath that she would testify truthfully in a proceeding before the United States Grand Jury, which had been duly impaneled and sworn in the United States District Court for the Western District of New York, did unlawfully and knowingly make certain false and material declarations to the said grand jury which were material to an investigation being conducted by said grand jury into alleged violations of Title 18, United States Code, Sections 1001 and 1341 and other offenses against the United States of America, which declarations, as she then and there knew, were not true and correct, to wit:

Q. Are you aware that a number of checks were mailed and that ten of these checks are in the hands of the New York State
Labor Department with an endorsement
Lucy Coleman on the back of each check
allegedly made by you?

- A. No.
- Q. Did you ever endorse a check payable to one Lucy Coleman?
- A. No.
- Q. Are you aware that that same individual,

 Lucy Coleman, listed your residence
 as the address of her employer Cook

 Auto Car Wash?
- A. No.

All in violation of Title 18, United States Code, Section 1623.

COUNT VIII Disn's'

The Grand Jury further charges:

That on or about the 8th day of August, 1973, in the Western District of New York, the defendant, MARY JEAN ASKEW, having duly taken an oath that she would testify truthfully in a proceeding before the United States Grand Jury, which had been duly impaneled and sworn in the United States District Court for the Western District of New York, did unlawfully and knowingly make certain false and material declarations to the said grand jury which were material to an investigation being conducted by said grand jury into alleged violations of Title 18, United States Code, Sections 1001 and 1341 and other offenses against the United States of America, which declarations, as she then and there knew, were not true and correct, to wit:

- Q. Did you ever receive a check or cash a check payable to Patricia Green from the State of New York?
- A. No.
- Q. Are you aware that the State of New York has a check payable to Patricia Green countersigned by one Mary Askew?
- A. Yes.
- Q. Is that Mary Askew yourself?
- A. Couldn't be.
- Q. Why would you say that?
- A. Because I don't know her. I wouldn't sign a check if I didn't know the person.
- Q. That signature couldn't be yours?
- A. No.

All in violation of Title 18, United States Code, Section 1623.

COUNT IX

DISMITS

The Grand Jury further charges:

That on or about the 8th day of August, 1973, in the Western District of New York, the defendant, MARY JEAN ASKEW, having duly taken an oath that she would testify truthfully in a proceeding before the United States Grand Jury, which had been duly impaneled and sworn in the United States District Court for the Western District of New York, did unlawfully and knowingly make certain false and material declarations to the said grand jury which were material to an investigation being conducted by said grand jury into alleged violations of Title 18, United States Code, Sections 1001 and 1341 and other offenses against the United States

of America, which declarations, as she then and there knew, were not true and correct, to wit:

- Q. Do you know a Fred E. Jackson?
- A. No.
- Q. Did you ever countersign a check payable by the State of New York to one Fred E. Jackson?
- A. No.

All in violation of Title 18, United States Code, Section 1623.

COUNT X PISMISS

The Grand Jury further charges:

That on or about the 8th day of August, 1973, in the Western District of New York, the defendant, MARY JEAN ASKEW, having duly taken an oath that she would testify truthfully in a proceeding before the United States Grand Jury, which had been duly impaneled and sworn in the United States District Court for the Western District of New York, did unlawfully and knowingly make certain false and material declarations to the said grand jury which were material to an investigation being conducted by said grand jury into alleged violations of Title 18, United States Code, Sections 1001 and 13/11 and other offenses against the United States of America, which declarations, as she then and there knew, were not true and correct, to wit:

- Q. Do you know a man named Johnny M. Clark?
- A. No.
- Q. Did you ever countersign any checks payable by the State of New York to Johnny M. Clark?
- A. No.

- Q. If the State of New York Department of Labor or the postal service is in possession presently of two checks payable by the State of New York to Johnny M. Clark with the endorsement or signature of Mary Askew on the back of the check, that could not be your signature?
- It could not be.
- Who could have signed or would have signed your name?
- A. I can't say that.
- Q. Did Johnny M. Clark ever live at your address or work at your address?
- A. No.

All in violation of Title 18, United States Code, Section 1023.

COUNT XI



The Grand Jury further charges:

That on or about the 8th day of August, 1973, in the Western District of New York, the defendant, MARY JEAN ASKEW, having duly taken an oath that she would testify truthfully in a proceeding before the United States Grand Jury, which had been duly impaneled and sworn in the United States District Court for the Western District of New York, did unlawfully and knowingly make certain false and material declarations to the said grand jury which were material to an investigation being conducted by said grand jury into alleged violations of Title 18, United States Code, Sections 1001 and 1341 and other offenses against the United States of America, which declarations, as she then and there knew,

were not true and correct, to wit:

- Q. Mrs. Askew, I show you Grand Jury
 Exhibit 5 dated August 10th, 1972,
 which includes a signature card, a
 check from the State of New York and
 a regisscope photograph with a picture
 of the same check and a woman at the
 bottom of the photograph and I ask
 you if the woman in that photograph
 is yourself.
- A. No.
- Q. Are you sure?
- A. I'm sure.
- Q. Have you ever seen that check before, Exhibit 5?
- A. No.
- Q. Did you sign that check at the back?
- A. No.
- Q. That is not your signature?
- A. No.

All in violation of Title 18, United States Code, Section 1623.

COUNT XII

The Grand Jury further charges:

That on or about the 8th day of August, 1973, in the Western District of New York, the defendant, MARY JEAN ASKEW, having duly taken an oath that she would testify truthfully in a proceeding before the United States Grand Jury, which had been duly impaneled and sworn in the United States District Court for the Western District of New York, did unlawfully and knowingly make certain false and material

declarations to the said grand jury which were material to an investigation being conducted by said grand jury into alleged violations of Title 18, United States Code, Sections 1001 and 1341 and other offenses against the United States of America, which declarations, as she then and there knew, were not true and correct, to wit:

- Q. I repeat the same questions for Exhibit 6 dated August 8th, which also is another check from the State of New York payable to the same individual, K.L. Willis, with a regisscope photograph. Is that you in the photograph?
- A. No.
- Q. Are you sure?
- A. Yes.
- Q. Have you ever seen that check and did you cash that check?
- A. No.
- Q. Did you sign the back of that check?
- A. No.
- Q. Are you sure?
- A. Yes. I'm sure.

All in violation of Title 18, United States Code, Section 1623.

COUNT XIII

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The Grand Jury further charges:

That on or about the 8th day of August, 1973, in the Western District of New York, the defendant, MARY JEAN ASKEW, having duly taken an oath that she would testify truthfully in a proceeding before the United States Grand

Jury, which had been duly impaneled and sworn in the United States District Court for the Western District of New York, did unlawfully and knowingly make certain false and material declarations to the said grand jury which were material to an investigation being conducted by said grand jury into alleged violations of Title 18, United States Code, Sections 1001 and 1341 and other offenses against the United States of America, which declarations, as she then and there knew, were not true and correct, to wit:

- Q. What about Exhibit 7, check payable to K.L. Willis and another photograph of a woman and a check. Is that you in the photograph?
- A. No.
- Q. Are you sure?
- A. Yes. I'm sure.
- Q. You never saw that check or cashed it or signed it?
- A. No.

All in violation of Title 18, United States Code, Section 1623.

COUNT XIV

The Grand Jury further charges:

That on or about the 8th day of August, 1973, in the Western District of New York, the defendant, MARY JEAN ASKEW, having duly taken an oath that she would testify truthfully in a proceeding before the United States Grand Jury, which had been duly impaneled and sworn in the United States District Court for the Western District of New York, did unlawfully and knowingly make certain false and material declarations to the said grand jury which were material to

an investigation being conducted by said grand jury into alleged violations of Title 18, United States Code, Sections 1001 and 1341 and other offenses against the United States of America, which declarations, as she then and there knew, were not true and correct, to wit:

- Q. What about Exhibit 8, same thing, check from New York State to Kathryn Willis and a photograph of a woman?

 Is that you in the photograph?
- A. No.
- Q. Are you sure?
- A. I'm sure.
- Q. You never saw that check or signed it?
- A. No.

All in violation of Title 18, United States Code, Section 1623.

COUNT XV

The Grand Jury further charges:

That on or about the 8th day of August, 1973, in the Western District of New York, the defendant, MARY JEAN ASKEW, having duly taken an oath that she would testify truthfully in a proceeding before the United States Grand Jury, which had been duly impaneled and sworn in the United States District Court for the Western District of New York, did unlawfully and knowingly make certain false and material declarations to the said grand jury which were material to an investigation being conducted by said grand jury into alleged violations of Title 18, United States Code, Sections 1001 and 1541 and other offenses against the United States of America, which declarations, as she then and there knew, were not true and correct, to wit:

- Q. And Exhibit 9 and Exhibit 10, regisscope photographs of a woman and a check. Is that you in the photograph?
- A. No.
- Q. You're sure?
- A. I'm sure.

All in violation of Title 18, United States Code, Section 1623.

The Grand Jury further charges:

That on cr about the 8th day of August, 1973, in the Western District of New York, the defendant, MARY JEAN ASKEW, having duly taken an oath that she would testify truthfully in a proceeding before the United States Grand Jury, which had been duly impaneled and sworn in the United States District Court for the Western District of New York, did unlawfully and knowingly make certain false and material declarations to the said grand jury which were material to an investigation being conducted by said grand jury into alleged violations of Title 18, United States Code, Sections 1001 and 1341 and other offenses against the United States of America, which declarations, as she then and there knew, were not true and correct, to wit:

- Q. Now, I show you Exhibit #11, which is an original claim for benefits filed by one Kathryn Lee Willis for unemployment benefits and ask you if the signature at the bottom of Exhibit 11 is your own signature where Kathryn Lee Willis appears.
- A. No.

- Q. Are you sure?
- A. I'm sure.

All in violation of Title 18, United States Code, Section 1623.

John T. Elfviņ

JOHN T. ELFVIN United States Attorney

A TRUE BILL:

PARTIAL TESTIMONY OF JAMES W. GRABLE
ON DIRECT EXAMINATION BY GOVERNMENT

(20)

New York?

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- Yes, there was. I was employed as an Assistant United States Attorney from September 1969 until September 1973.
 - All right. Mr. Grable, directing your attention to August 8, 1973, did you have occasion to examine before a United States Grand Jury an individual by the name of Mary Jean Askew?
 - Yes, I did. A.
 - All right. And, Mr. Grable, can you tell us when that 2. grand jury was impaneled?
 - That particular Federal Grand Jury was impaneled A. on July 9, 1973, and I began investigation on, I believe, July 31, 1973.
 - All right. And can you tell us, sir, who impaneled that grand jury?
 - To my recollection, Judge John T. Curtin. A.
- He is a United States District Judge, is he? 18 2.
 - Yes, he is. A.
 - Now, you indicated that you began an investigation on, I think you said, July 31st?
 - A. Yes, I did.
- All right. Now, can you tell us, Mr. Grable, the 24 type of investigation that you were conducting, its 25 nature and scope?

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Yes, it seems to me that the best evidence is the records themselves. Now, Mr. Grable, do you recall the nature of your (22)H. T. NOEL OFFICIAL REPORTER, U.S. DISTRICT COURT

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questioning to Mrs. Askew?

- A. Mrs. Mary Jean Askew was subpoenaed by representatives of the Marshal's office before that grand jury. I sought to take her testimony on that date in connection with this investigation I have just briefly outlined.
- Q. All right. Do you recall any of the questions you asked Mary Jean Askew on that day?
- A. Yes. If I may state by way of background information-
- Q. Please do.
- A. Mrs. Askew was subpoenaed before the grand jury --

MR. BAKER:

I object to the background, your Honor.

THE COURT:

No, I think the background is certainly relevant to whether the questions asked were material, the Court has to know.

Overruled.

MR. WILLIAMS:

Thank you.

THE WITNESS:

It was determined at the outset of this investigation that certain claims for unemployment benefits were made by employees representing to have worked for existing employers in the Buffalo, New York area. It was determined by the New York State Department of Labor and the United States Postal Service that some of these claims for unemployment

H. T. NOEL

(23)

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benefits were based upon wage claims made by these employees which were found to be grossly exaggerated wage wage claims. It was also determined by these two authorities, the Department of Labor and the Postal Service, that other claims were made by what turned out to be fictitious individuals for unemployment benefit claims against non-existent businesses or employers in the Buffalo, New York area. One of these claims was made by an individual with the name of -- I believe it was Kathryn Lee Willis, and Kathryn Lee Willis represented to have worked for a Cook & Green Auto Wash, with a business address listed at 83 Brunswick Boulevard in a suburb of Buffalo, New York. As a result of an application for unemployment benefits made by the Willis woman, the State Department of Labor processed the claim and the certification of employment was returned by somebody from a Cook & Green Auto Wash or car wash operation, with a business address

(24)

New York State Department of Labor
thereafter issued weekly unemployment
checks as unemployment benefits to this
Kathryn Willis and in some instances to
a K.L. Willis on the basis of the
representations that she had been employed
by this car wash at 83 Brunswick Boulevard. Independent investigation determined that the residence located at 83
Brunswick Boulevard was a two family
residence located on a residential
street. The owner of the premises and
the tenant of the downstairs portion
was Mrs. Mary Jean Askew.

BY MR. WILLIAMS:

- Q. Thank you, Mr. Grable. Do you recall, sir, any of the specific questions you put to Mrs. Askew and any of the specific answers you received?
- Jury that Mrs. Askew did in fact reside at 83

 Brunswick Boulevard during the years 1970 and 1971, in the lower half of the premises, and I sought to establish during this grand jury investigation Mrs. Askew's knowledge, if any, of a Kathryn Lee Willis.

PARTIAL CROSS EXAMINATION OF

JAMES W. GRAPLE BY DEFENSE COUNSEL

1		form at the request of Mr. Roy Traub who is seated
2		at the Government table before you. This was done
3		on August 8th after Mrs. Askew was excused from the
4		grand jury.
5	MR.	WILLIAMS: Thank you, sir. I have no further ques-
6		tions.
7	CRO	SS EXAMINATION BY MR. BAKER:
8	Q.	Mr. Grable, were you in charge of this investigation?
9	Α.	At that time I was.
10	Q.	When you were in the United States Attorney's office,
11		is that correct?
12	Α.	Yes.
13	ચ.	Had you focused on any particular area at that time?
14	Α.	By that you mean focused on any individual or
15		particular
16	٦.	Area of involvement?
17	Α.	Yes, I had.
18	૨.	How long had this grand jury been sitting there, Mr.
19		Grable, prior to the appearance of Mrs. Askew?
20	Α.	One week.
21	٦.	Had you been taking testimony all that week?
22	Α.	My recollection is that testimony was taken on
23		July 31st, one week earlier. I don't recall any other
24		grand jury sessions prior to August 8th.
25	۵.	Now, when Mrs. Askew came to testify before the grand

- jury, she came pursuant to a subpoena, is that correct?
- 2 A. Yes, sir.

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- Q. Did she come to your office prior to giving that testimony?
- A. Yes, she did.
 - Q. Did you speak to her prior to giving that testimony?
- 7 A. Yes, I did.
 - Q. Did you advise her that anything she said in the grand jury could be used against her?
- 10 A. Yes, I did.
 - Q. Did you tell her during the proceedings or prior to the proceedings that if she testified falsely, a charge of perjury could be placed against her?
 - A. Yes, I did.
 - Q. Now, beside that, she went ahead and testified, is that correct?
 - A. Yes, sir.
 - Q. And she gave approximately fifty-eight pages of testimony or fifty some pages of testimony, is that correct?
- 21 A. Yes.
 - Q. And the pages you have testified to here today would take up a very small portion of that transcript, is that correct?
 - A. Yes.

1 And during your questioning that day in front of the 2 grand jury you asked her other questions, is that 3 correct? 4 Yes, I did. A. 5 In fact, that entire transcript consists of questions 6 and answers, questions asked by you and answers 7 given by her, is that correct? 8 A. Yes. 9 Now, these Regiscope photographs, Mr. Grable, which 2. 10 you have identified here, and the checks, you handed 11 them to her and asked her to look at them? 12 A. Yes, I did. And asked her if that was her, is that correct? 14 Yes. A. 15 To which she said no? Q. 16 That is correct. A. 17 All she had in front of her was the photograph, is 2. 18 that correct? 19 Yes. A. 20 Now, these Regiscope photographs, which you have 2. 21 identified, is a small photograph, isn't that correct? 22 Yes. A. 23 In fact, it only shows a very small portion of a 2. 24 person's body, isn't that correct?

> H. T. NOEL OFFICIAL REPORTER, U.S. DISTRICT COURT

It shows a full head and shoulders picture of a woman

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A.

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PARTIAL CROSS EXAMINATION BY DEFENSE COUNSEL

OF LEROY TRAUB, POSTAL INSPECTOR, A GOVERNEMNT WITNESS

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1			marked for identification.
2	MR.	BAKER:	I object to 34, your Honor, which is the
3			original claim for benefits, as not
4			having a proper foundation
5	THE	COURT:	Overruled.
6	MR.	BAKER:	as the record of the New York State
7			Unemployment Department.
8	THE	COURT:	Overruled.
9	MR.	BAKER:	I have no objection to the other documen
10			which is marked Government's Exhibit 33.
11	THE	COURT:	Both received, mark them in evidence.
12			(Government's Exhibits 33 and 34, pre-
13			viously marked for identification, were
14			received and marked in evidence.)
15	MR.	WILLIAMS:	I have no more questions of this witness
16	CROS	SS EXAMINATIO	N BY MR. BAKER:
17	Q.	Mr. Traub, w	here did you obtain Government's Exhibit
18		34?	
19	Α.	From a	
20	THE	COURT:	Just a minute. How is that material?
21	/		It is offered only as a genuine sample
22			of the defendant's handwriting.
23	MR.	BAKER:	I would like to know where he obtained
24			it.
25	THE	COURT:	How is it material?

(31)

92 I want to determine whether it came from MR. BAKER: 1 the New York State Unemployment Depart-2 3 ment. I don't see that that is material. 4 THE COURT: BY MR. BAKER: 6 You had this exhibit in your possession, 34, is that 7 correct, Mr. Traub? 8 Yes, it is. A. That is the claim for benefits, correct? 9 10 That is correct. 11 Now, some of that writing or pencilling on that 12 document is printing, is it not, sir? 13 That is correct. A. It is not all writing on that document, isn't that 14

A. That is correct.

correct?

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- Now, referring you to Government's Exhibit 33, Mr.

 Traub, which you have testified to as being a handwriting exemplar, you testified that Mary Askew gave you
 that, sir, she provided that for you?
- 21 A. Government's Exhibit 33, yes.
- Q. Now, were you with her at all times when she was providing this to you?
- 24 A. Yes, I was.
 - Q. You were witnessing her signing -- writing on those

PARTIAL TESTIMONY OF

MARY JEAN ASKEW BEFORE THE GRAND JURY

MARY JEAN ASKEW, 83 Brunswick Blvd., Buffale, New York, after being duly called and sworn, testified as follows:

EXAMINATION BY MR. GRABLE:

- Q. Mrs. Askew, you were subpoenaed to appear here today by a federal subpoena that was served upon you approximately two days ago, is that correct?
- A. That's correct.
 - All right. And before I ask you any questions I want to advise you that under the Fifth Amendment of the Constitution you have the right to remain silent during this Grand Jury proceeding. You have the right to refuse to answer any questions which I or the Grand Jury may ask of you which in any way could or would incriminate you. I want you to understand that if you do elect to testify or answer any questions here, anything you say can and will be used against you if incriminating. You have the right to counsel of an attorney. If you cannot afford one, the court will appoint one to advise you in regard to your testimony to this panel.

 Again, if you do testify here, anything you do say

can be used against you. Do you understand your rights? Yes. A. 3 All right. Q. I understand them. A. All right. Now, do I have your assurance that Q. during the series of questions I am about to ask you and if the Grand Jury asks you any additional questions that if you are unsure of your rights or 9 unsure of the answer that you would take the Fifth 10 Amendment or invoke your Constitutional priviledge? 7 7 Yes. A. 12 All right. Do you know a man named Elgin C. Cook? Q. 13 Yes. A. 14 How long have you known him? 15 Oh, all his life. A. 16 All right. Does he live at 379 Emslie Street? Q. 17 I can't be sure. A. 18 All right. Did he ever live at 199 Peckham Street? Q. 19 Yes. A. 20 Does he live there at the present time? Q.

When did he last live there to your knowledge?

23

21

22

Α.

Q.

I don't know.

Grand Jury Exhibits #1 through #4 for Identification).

BY MR. GRABLE:

Now, before I ask you any more questions, Mrs. Askew, I want to advise you that under the federal law it's a federal offense to commit the crime of perjury. By that I mean if you tell an untruth, or in other words lie before this Grand Jury in an answer to any questions that you are asked, you commit the crime of perjury and you may be prosecuted for that crime and it carries a maximum penalty of five or ten years in prison, as well as a substantial monetary fine. And I want you to understand that if in fact you do commit perjury before this Grand Jury, you will subject yourself to prosecution for this offense by this same

A. Yes.

Q. First, I show you Grand Jury Exhibit #1 for Identification dated August 8th, 1973, which consists of a signature card and a check from the State of New York payable to K.L. Willis, 83 Brunswick Blvd., Buffalo, New York, in the amount of

Grand Jury. Do you understand that?

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT UNITED STATES OF AMERICA Plaintiff-Appellee -VS-Docket No. 75-1015 MARY JEAN ASKEW Defendant-Appellant STATE OF NEW YORK) COUNTY OF ERIE) CITY OF BUFFALO) R. PETER MORROW, III, being duly sworn deposes and says: I personally served two (2) copies of the appendix and appellant's brief upon a representative of the United States Attorney for the Western District of New York at the Federal Courthouse, Buffalo, New York Sworn to before me this 21st day of March, 1975. My Communication expenses War, 50, 19

